

## **REMARKS**

Receipt of the Office Action of January 13, 2009 is gratefully acknowledged.

Page 5 of the specification has been corrected as suggested by the examiner.

Claims 14 - 19 and 21 - 28 have been re-examined and finally rejected as follows: claims 14, 15, 21 and 25 are finally rejected under 35 USC 103(a) over Wischinski in view of Ten Brink and Cuzzo et al; claim 16 has been finally rejected under 35 USC 103(a) over Wischinski in view of Ten Brink, Cuzzo et al and Jurisch et al; claims 18 and 22 - 24 are finally rejected under 35 USC 103(a) over Wischinski in view of Ten Brink, Cuzzo et al and Havekost et al; claim 19 has been finally rejected under 35 USC 103(a) over Wischinski in view of Ten Brink, Cuzzo, Havekost et al and AAPA; claim 26 has been finally rejected under 35 USC 103(a) over Wischinski in view of Havekost et al; claim 27 has been finally rejected under 35 USC 103(a) over Wischinski in view of Ten Brink, Cuzzo et al, Havekost et al and Alexander III et al; and claim 28 has been finally rejected under 35 USC 103(a) over Wischinski in view of ten Brink, Cuzzo et al and Alexander III et al.

These final rejections have been carefully considered but are not believed to be an impediment to patentability. Accordingly, these rejections are traversed.

Wischinski discloses a system for interrogating an ICS (Industrial Control System) for remote automation or control devices. On page 2, paragraph 2 of Wischinski there is described a system which includes a device identifier for determining components (hardware, software, firmware) of predetermined automation or control devices indicated in a device database by periodically querying the devices to have each device indicate its components hardware,

software and firmware. By comparison of the available device components with the components stored in the data base it becomes possible to provide an offer to upgrade installed device components. This is done by a device configuration manager.

The known system serves for interrogating an ICS from a remote location to learn what equipment is being used, and in case of an alternative to a piece of equipment being available, to suggest to the owner/operator of the ICS that the piece of equipment be replaced. There is no hint in Wischinski that the known system serves for recognizing a tampering of the device. The Examiner asserts that only the feature 'using the control unit to request at intervals in time, an individual identifier of the field device', would be known when considering Wischinski. Applicant disagrees. This feature is not disclosed in this way in Wischinski. Wischinski states on page 2, lines 9-15 the following: '... and a device configuration manager, responsive to the component identifications in the device database, and further responsive to available device components in a database of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components'. The abstract states the following: A system for providing technical support for remote automation or control devices. It includes a device identifier, for determining components of predetermined automation or control devices, such as for example programmable logic controllers (not field devices), indicated in a data base by periodically querying the devices to have each device indicates its components hardware, software, and firmware, the device identifier for providing the device database with component identification for the predetermined devices; and a device configuration manager, responsive to the components identification in the device database, and further responsive to available device components in a database of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components.'

Therefore the periodically querying in Wischinski has nothing to do with investigations in view of tampering and Wischinski is not appropriate to provide any hint in the direction of the present invention. Consequently a combination of Wischinski with any other of the cited patent documents makes little sense as a way of reaching the present invention.

Ten Brink also goes in a different direction. Ten Brink's solution is based on the concept of permitting only specific devices for operating in automation systems, in particular automatic systems/devices of the SIMATIC series. On page 2 it is stated: If a device connected to the central processing does not transmit the identification text 'I am an original Siemens device', the central processing denies operation with such a device. Therefore a periodically querying makes no sense in view of Ten Brink.

The combination of Wischinski and Ten Brink would not, it is respectfully submitted, lead a skilled person in the direction of the present invention, as they describe completely different embodiments, which lack compatibility

Cuzzo et al. describes a transmitter and a water system or distribution protection device, such as a fire hydrant protection device. The fire hydrant inhibits an unauthorized individual from accessing water from a water system device. The transmitter which may be a telemetry transmitter transmits a first signal when the water system protection device is tampered with. One or more sensing devices are provided that sense when the water system protection device has been tampered with, and cause the transmitter to transmit the first signal. Cuzzo et al. does not refer to process automation where field devices and the processing unit are connected via a data bus. Therefore the skilled person would certainly not consider this prior art, either alone or in combination.

The remaining patents serve little purpose since the deficiencies noted in the

three main references are not cured when combined with the remaining references

The examiner is urged to reconsider the final rejections noted above and advance a finding that claims 14 - 19 and 21 - 28 are allowed

Respectfully submitted,

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